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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,614	03/17/2006	David Peter Louis Simons	NL 031130	7657

24737 7590 04/30/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

FEATHERSTONE, MARK D

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

04/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/572,614

Applicant(s)

SIMONS ET AL.

Examiner

MARK D. FEATHERSTONE

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 17 March 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 14 recites "A computer program product". A computer program by itself is not considered statutory subject matter. It must be contained on a computer readable medium.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 6, and 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Barrett et al, US Patent # 6005597.

With regard to claim 1, Barrett discloses:

A system of apparatuses for receiving content items, the system comprising selection control means for controlling the apparatuses to select automatically (column 2, lines 20-24; Barrett discloses that the system sorts and presents programs to the viewer based on the order of predicted interest) the same content items for users having substantially the same user preferences (column 2, lines 34-43 - Barrett describes that viewers that have similar preferences, such as the television show "Friends", the system will conclude that those viewers will also like the show "Seinfeld").

With regard to claim 2, Barrett discloses:

The system of claim 1, wherein the selection control means is arranged to control the apparatuses to select the content items simultaneously (column 11, lines 50-61; Barrett discloses that two or more receivers can be used, with channels simultaneously displayed wherein one receiver displays the highest scoring program and a second receiver displays the second highest scoring program, etc)

With regard to claim 3, Barrett discloses:

The system of claim 1, wherein the selection control means is arranged to control the apparatuses to select a first content item and a second content item, wherein the first and second content items are sequential in accordance with the user preferences (column 2, lines 20-25; Barrett discloses that available programs are sorted and presented in descending order of predicted interest)

With regard to claim 6, Barrett discloses:

The system of claim 1, further comprising user profiling means for obtaining a collaborative user profile of the users having substantially the same user preferences (Figure 9, item 910 and column 2, lines 57-59), and a control schedule of subsequent content items, the selection control means being arranged to obtain said control schedule to control the apparatuses accordingly (column 2, lines 61-67; Barrett discloses a schedule of items that are of interest to the viewer, arranged in an on-screen menu used to control the television).

With regard to claim 8, Barrett discloses:

The system of claim 1, wherein the users having substantially the same user preferences are users of the same TV channel (It is inherent in the system of Barrett that two users in the same geographical television area would be tuned to the same channel if they had the same user preferences)

With regard to claim 9, Barrett discloses:

The system of claim 1, wherein the selection control means is arranged to communicate with at least one apparatus for receiving content items by using wireless communication means, the wireless communications means comprising at least one mobile phone or remote control unit (column 7, lines 2-4; Barrett describes interaction with a remote control to select content)

With regard to claim 10, Barrett discloses:

The system as claimed in claim 1, wherein the at least one apparatus comprises content presentation means being at least one of a TV set, a video recorder, a DVD player, a home cinema system, a portable audio player, a portable video

player, or a mobile phone (column 3, lines 48-49; Barrett describes the system for television program selection)

Claim 11 is the receiving apparatus of system claim 1, and is rejected as applied.

With regard to claim 12, Barrett discloses:

A remote control unit for communicating with an apparatus for receiving content items, wherein the remote control unit is arranged to control the apparatus to select automatically the same content items as another apparatus for receiving content items, with users of the apparatuses having substantially the same user preferences (column 4, lines 20-23; Barrett describes that the remote control can be used to successively select programs of lower ranking. As described in the claim 1 rejection, the system of Barrett is capable of selecting the same programs for users having the same user preferences).

Claim 13 is the method of system claim 1, and is rejected as applied.

Claim 14 is the computer program to invoke the receiver of claim 11, and is rejected as applied. The receiver as taught by Barrett inherently is run by computer instructions.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett et al, US Patent # 6005597 in view of De Saint Marc et al, US Patent # 6839901.

With regard to claim 4, Barrett discloses the system of claim 3 (see claim 3 rejection), however he does not specifically disclose that the apparatus will select a second content item in response to an interruption of receiving the first content item, wherein the first and second content items are related to the same broadcast live event.

De Saint Marc, in his patent, discloses this feature (column 1, lines 34-37; De Saint Marc discloses that it is popular to broadcast multiple camera angles or multiple matches of the same cup event; Column 2, lines 1-5; De Saint Marc discloses interrupting a broadcast with an event message concerning a broadcast on another channel; column 3, lines 2-5; De Saint Marc describes that upon receiving the event message, the decoder can automatically change the channel to show the event).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the system of Barrett with the feature of De Saint Marc. The advantage of this would be to further target programming to a viewer, as is the purpose of the system of Barrett.

With regard to claim 7, Barrett discloses:

The system of claim 1 (see claim 1 rejection), however, he does not specifically disclose the feature of an operator at the side of the selection control means instructing the selection control means to control the apparatuses accordingly.

De Saint Marc, in his patent, discloses this feature (column 2, lines 10-12; De Saint Marc teaches that the event message that interrupts the live event can be manually inputted by an operator at the transmission center. As described in the claim 4 rejection, this message can cause the receiver to automatically tune to the relevant channel).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the system of Barrett with the feature of De Saint Marc. The advantage of this would be to allow for human to input an important message that a computer may not be programmed to do.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett et al, US Patent # 6005597 in view of Schein, US Patent # 6002394.

With regard to claim 5, Barrett discloses the system of claim 3 (see claim 3 rejection), however fails to specifically disclose the selection control means being arranged to control the apparatuses to select the second item being a continuation of the first content item.

Schein, in his patent, discloses that it would be advantageous to present users with episodes of shows arranged chronologically (column 24, lines 61-65)

A person of ordinary skill in the art at the time of invention would have found it obvious to modify the system of Barrett with this feature in order to automatically present the next chronologically ordered episode to a viewer. The advantage of this would be to allow viewers to continue to watch their favorite programming.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK D. FEATHERSTONE whose telephone number is (571)270-3750. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F US Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

E-Signed

/Mark Featherstone/ - Assistant Examiner

/Andrew Y Koenig/
Supervisory Patent Examiner, Art Unit 2623